

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Ekoko K. Avoki; Francisco K. Avoki,)	C/A No. 0:17-1141-SAL-PJG
)	
Plaintiff,)	
)	
v.)	
)	ORDER
City of Chester SC; Police of Chester SC;)	
PTL Covington; Doe I-XXX,)	
)	
Defendants.)	
)	

The self-represented plaintiffs, Ekoko K. Avoki and Francisco K. Avoki, filed this civil rights action *in forma pauperis* under 28 U.S.C. § 1915. This matter is before the court pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.) for an order on the plaintiffs’ motion to lift the stay. (ECF No. 424.) On March 6, 2020, the court granted the defendants’ motion for summary judgment as to the plaintiffs’ Fourteenth Amendment claim but stayed the plaintiffs’ Fourth Amendment and retaliation claims pending the ultimate termination of Ekoko Avoki’s purported state prosecution. (ECF No. 403.) The court further ordered the plaintiffs to file a status report “detailing the activity” in Ekoko Avoki’s state prosecution by March 16, 2020. (Id.) The court later extended that deadline to July 8, 2020. (ECF No. 415.)

On July 10, 2020, the plaintiffs filed a motion to lift the stay (ECF No. 424) and the defendants filed a response in opposition (ECF No. 429). As pointed out by the defendants in their response, the plaintiffs do not provide any details about Ekoko Avoki’s state prosecution other than to say that “nothing has been done” and “no prosecution from Municipal Court done yet [*sic*].” (ECF No. 424 at 1.) Otherwise, the plaintiffs repeat their arguments as to the merits of the underlying legal issues in this case. Therefore, the plaintiffs have failed to provide a status report

about Ekoko Avoki's state prosecution as ordered by the court, and consequently, the plaintiffs' motion to lift the stay is denied.

Accordingly, the plaintiffs are directed to provide a status report about Ekoko Avoki's state criminal prosecution by **February 1, 2021** that must include, at a minimum: (1) documentation showing that the state criminal proceeding is active or ongoing and (2) a sworn affidavit or declaration that the plaintiffs or a legal representative have attempted to confer with the prosecution in Ekoko Avoki's state criminal case to determine the case status. **Failure to comply with this order may result in sanctions, including the dismissal of the plaintiff's stayed claims for failure to prosecute.**

IT IS SO ORDERED.

January 8, 2021
Columbia, South Carolina


Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE